

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                                  |   |  |
|----------------------------------|---|--|
| ANTHONY SMITH,                   | ) |  |
|                                  | ) |  |
| Plaintiff,                       | ) | Civil Action Nos. 07-605, 606, 607, 608, |
|                                  | ) | 609, 610, 611, 612, 613, 614             |
| v.                               | ) |  |
|                                  | ) | Judge Flowers Conti                      |
|                                  | ) | Magistrate Judge Caiazza                 |
| ARRESTING AGENT, <i>et al.</i> , | ) |  |
|                                  | ) |  |
| Defendants.                      | ) |  |

**MEMORANDUM ORDER**

The Plaintiff Anthony Smith (“Smith” or “the Plaintiff”), an inmate confined under judgment of sentence at the State Correctional Institution at Dallas, Pennsylvania (“SCI-Dallas”), filed the ten above-captioned lawsuits under the Civil Rights Act of 1871, 42 U.S.C. §1983. He sought permission to proceed in forma pauperis in each case. On May 11, 2007, the court granted Smith’s petition, computed proper initial partial filing fees and informed the Plaintiff of that amount. Smith was directed to either sign an authorization which would allow the institutional account officer to deduct the partial filing fee from his account and pay it into the court, or sign a form opting to withdraw the actions. He was directed to comply with the Court’s Order by May 29, 2007 (Doc. 2). These Orders were mailed to Smith at SCI-Dallas.

Smith did not sign authorization form(s) nor did he opt to withdraw these actions, ignoring the Court’s May 11, 2007 Orders. Consequently, on June 18, 2007, the Magistrate Judge recommended that Smith’s actions be dismissed, without prejudice to the Plaintiff’s right to re-file them within the applicable statute of limitations period by paying the full filing fee of \$350.00 in each case. The Magistrate Judge’s Reports and Recommendations were mailed to the

Plaintiff at SCI-Dallas, and no objections were filed.

On July 19, 2007, the Court entered Orders dismissing each of Smith's civil rights Complaints, without prejudice to the Plaintiff's right to re-filing within the applicable statute of limitations period by paying the full filing fee of \$350.00 in each case. The Plaintiff now files, in each case, a "Motion to Vacate Order on Report and Recommendation" (Doc. 6), in which he claims that he did not receive a copy of the Report and Recommendation. He asks that the Court vacate its judgments and accept "the partial filing fee requested by" the Magistrate Judge on May 11, 2007. *Id.*

It was Smith's failure to authorize the withdrawal of funds from his prison account that prompted the dismissal of his cases. And, while Smith now claims that he never received the June 18, 2007 Reports and Recommendations, he does not contest that he received the May 11, 2007 Orders which specifically informed him of his duty to provide the Court with executed authorizations. Without dispute, Smith received these orders and chose to ignore them; this warrants dismissal without prejudice. *See, e.g., Brown v. Beck*, 2006 WL 2130505, \*3 (10th Cir. Aug. 1, 2006) (affirming dismissal of inmate's civil rights action without prejudice for failure to comply with initial order to pay partial filing fee; although prisoner claimed he did not receive show cause order, he did not claim district court erred in manner of mailing, nor did he dispute receipt of initial payment order).

For all of these reasons, IT IS HEREBY ORDERED on this 8th day of August, 2007, that the Plaintiff's Motion to Vacate Order on Report and Recommendation (**Doc. 6**) is **DENIED**. This order is entered without prejudice to the Plaintiff's right to re-file his cases, seeking permission to proceed in forma pauperis

/s/ Joy Flowers Conti  
Joy Flowers Conti  
U.S. District Court Judge

cc:

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